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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/081,674	02/22/2002	Fermin Ruiz	PGI6044P0830US	2114
32116	7590	02/24/2006	EXAMINER	
WOOD, PHILLIPS, KATZ, CLARK & MORTIMER 500 W. MADISON STREET SUITE 3800 CHICAGO, IL 60661			GELLNER, JEFFREY L	
			ART UNIT	PAPER NUMBER
			3643	

DATE MAILED: 02/24/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/081,674

Applicant(s)

RUIZ ET AL.

Examiner

Jeffrey L. Gellner

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 08 February 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1,8,16,18,23 and 24 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 18,23 and 24 is/are allowed.
- 6) ☒ Claim(s) 1,8 and 16 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

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### DETAILED ACTION

Upon reconsideration of the prior art the allowability of claims 1, 8, and 16 is withdrawn. A rejection of these claims with new art follows. Examiner any inconvenience to Applicant is regretted.

#### *Claim Rejections - 35 USC § 103*

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1, 8, and 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kozak et al. (US 4,983,068) in view of Allen (US 4,623,282).

As to claim 1, Kozak et al. discloses protective cover (Figs. 1-3) capable of protection of agricultural products, the protective cover sized to permit the cover to be positioned generally about an associated agricultural product, the cover being formed from a single ply nonwoven fabric (from “non-woven spun bonded, polypropylene fabric” of col. 2 lines 45-60) consisting of thermoplastic polymers (from “non-woven spun bonded, polypropylene fabric” of col. 2 lines 45-60) having a basis weight of 152 g/m<sup>2</sup>, said nonwoven fabric exhibiting the capability to modify the ripening of the agricultural product prior to harvesting while retarding passage of dust and insects; the fabric with a seam joint that is heat bonded (“heat sealing” of col. 2 lines 35-44). Not disclosed is the basis weight from 10 to 100 g/m<sup>2</sup> and printing on the fabric that is capable of

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modifying the ripening of the agricultural product by alteration of light transmission. Allen, however, discloses a material with printing (indicia shown in Fig. 2). It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the cover of Kozak et al. by adding the printing of Allen so as to warn individuals of any danger and to lower the basis weight from 10 to 100 g/m<sup>2</sup> so as to produce lighter product. The printing would inherently alter light transmission that would be capable of modifying fruit ripening.

As to claim 8, Kozak et al. as modified by Allen further disclose a means for affixing the protective cover about an agricultural product ("stables" of col. 2 lines 30-44).

As to claim 16, Kozak et al. discloses protective cover (Figs. 1-3) capable of protection of agricultural products, the protective cover having a tubular configuration (see Fig. 1) sized to permit the cover to be positioned generally about an associated agricultural product, the cover being formed from a single ply nonwoven fabric (from "non-woven spun bonded, polypropylene fabric" of col. 2 lines 45-60) consisting of thermoplastic polymers (from "non-woven spun bonded, polypropylene fabric" of col. 2 lines 45-60), said nonwoven fabric exhibiting the capability to modify the ripening of the agricultural product prior to harvesting while retarding passage of dust and insects. Not disclosed is printing on the fabric that is capable of modifying the ripening of the agricultural product by alteration of light transmission. Allen, however, discloses a material with printing (indicia shown in Fig. 2). It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the cover of Kozak et al. by adding the printing of Allen so as to warn individuals of any danger. The printing would inherently alter light transmission that would be capable of modifying fruit ripening.

*Allowable Subject Matter*

Claims 18, 23, and 24 are allowed over the art of record.

*Response to Arguments*

Any of Applicant's arguments with respect to claims 1,8, and 16 have been considered but are moot in view of the new ground(s) of rejection.

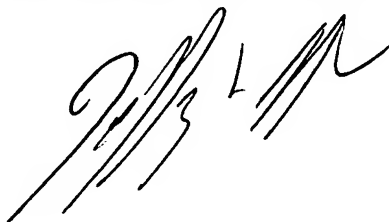
*Conclusion*

Again, Examiner any inconvenience to Applicant is regretted.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jeffrey L. Gellner whose telephone number is 571.272.6887. The examiner can normally be reached on Monday-Friday, 8:30-4:00, alternate Fridays off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Peter Poon can be reached on 571.272.6891. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Jeffrey L. Gellner  
Primary Examiner  
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